IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 1898 OF 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)
Versus
S. T. KAMDAR MANDAL - Respondent(s)

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Appearance :
Shri Mitul K. Shelat for Petitioner(s).
Shri Manoj Shrimali for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 13/07/2007

ORAL JUDGMENT

The petitioner-Gujarat State Road Transport Corporation, being aggrieved by the award dated 30th May, 1988 passed by the

learned Industrial Tribunal, Rajkot in Reference (IT) No.84 of 1992, is before this Court under Article 227 of the Constitution of India, with a submission that the learned Tribunal was unjustified in setting aside the punishment, which was awarded to the respondent-workman on conclusion of the departmental inquiry.

2. From the records and the order passed by the learned Industrial Tribunal, it would appear that the records pursuant to the domestic inquiry were not produced before the learned Industrial Tribunal, therefore, the Industrial Tribunal had drawn an adverse inference against the present petitioner.

3. Shri Mitul Shelat, learned Counsel for the petitioner, submits that in accordance with the standard Standing Orders, all files relating to domestic/departmental inquiry are destroyed on completion of five years and as in this case the matter came to the learned Industrial Tribunal almost after nine years, the files were not traceable.

4. It is to be seen from the records that this defence was not raised before the learned Tribunal, no witness was examined to prove that as a fact, the file relating to this case was destroyed. The standard Standing Orders are, in fact, the policy, but, the evidence to prove that the policy was adhered to was required to be proved. Not only that when

the files are destroyed, register and list are always maintained by different departments, but, no list has been filed in the learned Industrial Tribunal. Under the circumstances, the learned Industrial Tribunal was absolutely justified in drawing an adverse inference against the present petitioner.

5. I find no reason to interfere. The petition deserves to and is, accordingly, dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

*kamlesh**